

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	Friedli, Charles W., et al.)
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SERIAL NO.:	10/677,922)
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FILED:	October 1, 2003)
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TITLED:	Battery Latch)
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EXAMINER:	Piggush, Aaron C.)
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GROUP:	2838)
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Commissioner for Patents
P.O. Box 1450
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants hereby request review of the final rejection in the above-identified application. The review is being requested for the reasons stated below, which frames the issue to be considered as part of the pre-appeal review process.

I. Claims 1 through 5, 9 and 12 through 14 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,213,078 to Ferrell, et al. ("Ferrell, et al. patent").

Claims 1 and 9 provide, *inter alia*, one or more barbed wing members supporting a pair of barbs extending perpendicularly from the barbed wing member(s). In contrast, the Farrell, et

al. patent describes a backup spring 30-3 having a pair of protrusions extending at a slight angle (see FIG. 12), not perpendicularly as required by claims 1 and 9. In the Advisory Action of October 11, 2006, the Examiner states that the pair of protrusions of no. 30-3 can reasonably be considered to be connected perpendicularly, even though they have a slight slant. The Advisory Action further states that the Farrell, et al. patent implies the pair of protrusions will bend (i.e., back up spring) to a perpendicular level when inserted into the holding slot, as shown in FIG. 2.

What the Examiner believes to be perpendicular, the Applicants believe to be co-linear. In previous Office Actions, the Examiner has referenced the barbed wing member to be either the right or left side of the middle portion of no. 30-3 in FIG. 12 and the pair of barbs to be the edges at the top and bottom of no. 30-3 in FIG. 12 which stick out from the middle portion of no. 30-3 (see page 3, lines 8 through 13, of the Office Action of July 31, 2006). Applicants believe that FIG. 12 clearly shows the top and bottom of no. 30-3 to be co-linear or substantially co-linear (at the slight angle) with the middle portion of no. 30-3. The Examiner's belief that FIG. 12 shows the top and bottom of no. 30-3 to be perpendicular to the middle portion of no. 30-3 is clearly mistaken. This is clearly true when, as assumed by the Examiner in the Advisory Action, they are bent (i.e., back up spring) to a co-linear level when inserted into the holding slot, as shown in FIG. 2.

Claims 2 through 5 and 12 through 14 depend from and include all limitations of independent claims 1 and 9. Therefore, claims 2 through 5 and 12 through 14 distinguish patentably from the Ferrell, et al. patent for the reasons stated above for claims 1 and 9.

II. Claims 1 through 5 and 7 are rejected under 35 U.S.C. §102(c) as being anticipated by U.S. Patent No. 6,633,152 to Sharrah, et al. patent ("Sharrah, et al. patent").

In addition to the barbed wing member and pair of barbs discussed above, claims 1 and 9 further provide, *inter alia*, a planar member configured for insertion to the rechargeable battery pack in a first linear direction, and at least one insertion snap coupled to the planar member configured to resist a spring force and maintain the planar member at a particular position relative to the rechargeable battery pack until released therefrom. The Sharrah, et al. patent describes a unitary latch member 80 having various sections angled relative to each and rotating about a pivot 83. In the above Advisory Action, the Examiner states that both no. 82 and the protrusion to the left of arrow no. 80 in FIG. 9 are reasonably considered barbs, which extend perpendicularly and are supported by latch no. 80, which is a barbed wing member.

If no. 82 and the protrusion to the left of arrow no. 80 are barbs, then the entire section of the latch member 80 must be the barbed wing member, since claims 1 and 9 require the barbs to extend from the barbed wing member. This configuration asserted by the Examiner results in no remaining part of the latch member corresponding to the planar member (certainly not a planar member for insertion in a linear direction) nor the insertion snap. Previous Office Actions indicate that the planar member corresponds to the upper end 81 (which rotates about pivot 83 and does not move linearly) but, based on the Examiner's statement above in the Advisory Action, the upper end 81 must be the barbed wing member, not the planar member. Thus, the Advisory Action is inconsistent with previous Office Actions, such as page 6 of the Office Action of July 31, 2006. Previous Office Actions also refer to the projection 82 as

corresponding to the insertion snap (see page 6, lines 10 through 12, of the Office action of July 31, 2006). This assertion is inconsistent with the Advisory Action, which states that projection 82 corresponds to one of the barbs.

Claims 2 through 5 and 7 depend from and include all limitations of independent claim 1. Therefore, claims 2 through 5 and 7 distinguish patentably from the Sharrah, et al. patent for the reasons stated above for claim 1.

III. Claims 8 is rejected under 35 U.S.C. §103(a) as being unpatentable over the Sharrah, et al. patent in view of the Ferrell, et al. patent.

Please see explanations provided above for the Sharrah, et al. and Ferrell, et al. patents. Claim 8 also distinguishes from the suggested combination of the Sharrah, et al. and Ferrell, et al. patents.

IV. Claims 10 and 11 are rejected under 35 U.S.C. §103(a) as being unpatentable over the Ferrell, et al. patent in view of U.S. Patent No. 4,728,157 to David, Jr. ("David, Jr., patent").

The David, Jr. patent does not David, Jr. patent do not describe or suggest a barged wing member or a pair of barbs extending perpendicularly from the barbed wing members, as required by the claims. Thus, claims 10 and 11 also distinguishes from the suggested combination of the Ferrell, et al. patent and the David, Jr., patent.

V. Conclusion

In view of the above remarks, and the corresponding analysis referenced from Applicants' previous responses, Applicants respectfully request that the Examiner's rejection of the claims be withdrawn.

Respectfully submitted,
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